IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN ITS INSOLVENCY JURISDICTION

PETITION NO.88 OF 2006

RE: D.M.Bagwe & Ors. ...Debtors

EX-PARTE :

Sicom Ltd. ...Ptg.Creditors

.....

None for Debtors.

Mr.P.V.Shah for Petitioning Creditors.

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CORAM: A.M.KHANWILKAR, J.

NOVEMBER 20, 2007.

P.C.

1. This Petition is founded on the decree passed by the Court in Summary Suit No.895 of 2000. That decree was passed on 6th December 2004. As the decretal amount remained unpaid, the Petitioning Creditors issued Insolvency Notice being Notice No.N/46 of 2005 on 28th February 2005. The said notice was duly served on the debtors. Thereafter, the debtors approached this Court by way of two separate Notices of Motion being Notices

of Motion Nos.59 of 2005 and 67 of 2005. Both these Motions were however, dismissed on 20th June 2006. Significantly, during the pendency of the said Motion, the debtors as per their agreement paid sum of Rs.20,00,000/- (Rupees Twenty Lakhs), perhaps to show their bonafides. That payment, however, was not sufficient to satisfy the decree passed in Suit No.1895 of 2000.

2. Be that as it may, on account of dismissal of the Notices of Motion on 20th June 2006 and the extended time given by this Court, as the debtors failed to pay further amount to the Petitioning Creditors, the act of insolvency was completed on 4th July 2006. As the debtors failed to pay any further amount to the Petitioning Creditors and the decree remained unsatisfied, the Petitioning Creditors had no option but to file the present Petition on 24th July 2006. The present Petition has been duly served on 6th October 2006 on debtor No.3 personally and on the remaining debtors by way of substituted service. Inspite of service, the debtors have not bothered to appear before this Court nor filed any reply affidavit contesting the

assertions made in the Petition.

3. As the assertions made in the Petition have remained uncontroverted and the decree which has remain unsatisfied, this Court has no option but to allow this Petition as prayed for.

4. Accordingly, Petition made absolute in terms of prayer clauses (a) and (b).

. Ordered accordingly.

A.M.KHANWILKAR, J.